



From: [Tammy Lininger](#)
To: [DH, LTCRegs](#)
Subject: [External] comments on proposed nursing home regulations
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August 30, 2021

Ms. Lori Gutierrez
Deputy Director, Office of Policy
625 Forster Street, Room 814
Health and Welfare Building
Harrisburg, PA 17120

Dear Ms. Gutierrez,

I am the administrator at St. Paul Homes in Greenville, PA. Representing our skilled nursing facility, I am compelled to share with you my deep concerns related to the proposed PA DOH Nursing Home Regulations that would increase staffing hours to 4.1 HPPD.

First and foremost, I cannot understand why the PA DOH would propose these requirements during a national state of emergency when we are in the midst of a worldwide pandemic. These last 18 months have been unbearably difficult for our staff. We all prayed and hoped that 2021 would find us on the back side of the pandemic with much hope and optimism for the future. What we have seen is the departure of many of our valuable staff due to care fatigue. Specifically, we have seen a departure of 78 employees in just the last 6 months alone. Many are leaving the medical field altogether to do something different and less stressful.

Couple this with the increasing prevalence of the Delta variant and we have a looming staffing crisis unlike any we experienced in the past year during the height of the pandemic. There is absolutely zero recognition of this fact in any pandemic planning call that we have participated in on the federal or state level. It is like it doesn't exist. The staffing crisis is real and getting profoundly worse.

There is also zero recognition by the Department or Governor's office of all the help wanted signs and advertisements for other businesses throughout the Commonwealth. Nursing homes are not just competing with other health care entities for help, but we are now competing with other businesses such as convenience stores, fast food chains and restaurants just to name a few. These industries can raise their prices for their products to pay the higher wages. Nursing homes cannot. Our revenue is mostly limited to Medicare and Medicaid, from which facilities have no control over payment rates set by the government. Raising private pay rates simply accelerates the dependency on state and federal benefits to pay for the cost of care.

As a not-for-profit healthcare provider, we would like nothing better than to hire more staff; however, without the financial resources and available workforce base, it is next to impossible to achieve. We have already suspended services in two of 9 neighborhoods reducing our care capacity by 42 residents. Whereas we are licensed for 192-residents, we are only staffing maximum capacity of 150 beds due to a lack of staff. St. Paul's and many of our colleagues at other facilities have had to limit the number of admissions we can accept due to lack of staff. This requirement has the potential to drive even more facilities to close altogether or reduce bed capacity to achieve the mandated results.

While the proposed regulation has the aspiring goal of improving the quality of care, higher staffing ratios do not equate to better quality. It does not consider that each facility is unique in its design. It does not consider resident acuity. It stifles facilities ability to be innovative and create person-centered models to achieve quality care. Consideration must be given to allow credit for other ancillary staff who work to support care each and every day (i.e. therapy, life enrichment, dining, housekeeping).

Furthermore, if approved, it has been suggested that this rule will become effective on the date of publication. Given all the previous concerns and facts stated, this is unfathomable on how facilities would comply. Even asking for a year defies reason under the present circumstances. Released in "packages", this proposed regulation only addresses definitions and minimums and leaves a serious lack of clarity in the details. All anticipated packages should be released with a 30-day comment period with a full regulatory review process before finalization and becoming effective.

This first package also adds language that stipulates any violations of federal regulations would also be violation of state regulations. As such, both state and federal fines can be applied for the same situations. Duplicative and expensive, these further erode efforts of the facilities to meet the desired goal of quality care.

Lastly, the proposed regulations may violate the Regulatory Review Act in that it incorporates references to the State Operations Manual, Chapter 7 and Appendix PP issued by CMS. Such guidance is not statutory or regulatory in nature. As such, these can be changed by CMS at any time without notice or public process. Inclusion here by reference risks a lack of due process for future DOH regulations including legislative review or oversight as outlined in the Act.

I respectfully ask for a reconsideration of the present proposed rule for all the reasons stated above.

Sincerely,
Tammy J. Lininger, N.H.A.

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